

FILED
CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 2019-6895

CIVIL
DISTRICT COURT

DIVISION "G"

DARNETTE DANIELS, individually
and on behalf of her minor child, TAYLER MCCLENDON

VERSUS

STATE OF LOUISIANA, ET AL.

FILED: _____

DEPUTY CLERK

FIRST AMENDED AND SUPPLEMENTAL PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes Named Plaintiff/Proposed Class Representative **DARNETTE DANIELS**, a person of the full age of majority, domiciled in the Parish of Orleans, State of Louisiana, appearing individually and on behalf of her minor child, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON**, a "graduating senior" of the John F. Kennedy Senior High School, to file this First Amended and Supplemental Petition for Damages to add additional Named Plaintiffs and proposed Class Representatives; to add indispensable parties; to expand the scope of the putative class; and to add allegations against the Defendants. The Honorable Paulette R. Irons granted Plaintiffs' Counsel leave to file this First Amended and Supplemental Petition on August 6, 2019 in open court.

PARTIES

AMENDED PARAGRAPH 1.

Representative Plaintiffs

- A. Named Plaintiff/Proposed Class Representative, **DARNETTE DANIELS**, is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother and legal guardian of John F. Kennedy Student Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON**.
- B. Named Plaintiff/Proposed Class Representative, **ANUSICA BANKS**, is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **AMBER BROWN**.
- C. Named Plaintiff/Proposed Class Representative, **AYANNA JORDAN**, is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana.

- She is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **ELIJAH JORDAN**.
- D. Named Plaintiff/Proposed Class Representative, **CHELETIA HERRING**, is a person of the full age of majority and domiciled in the Parish of St. Tammany, State of Louisiana. She is the biological mother and legal guardian of former John F. Kennedy Students Named Plaintiff/Proposed Class Representative **JEREMIAH GAINES** and putative class member **DANIEL TERRELL**.
- E. Named Plaintiff/Proposed Class Representative, **CLARISSA SMITH**, is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Class Representative **TRINITY BARNES**.
- F. Named Plaintiff/Proposed Class Representative, **KENA ROSS**, is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother and legal guardian of former John F. Kennedy Student Name Plaintiff/ Proposed Class Representative **JOHN ROSS**.
- G. Named Plaintiff/Proposed Class Representative, **RACQUEL YOUNG**, is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **JESSICA YOUNG**.
- H. Named Plaintiff/Proposed Class Representative, **SHARLENE SULLIVAN**, is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **LEDREKIA SMOTHERS**.
- I. Named Plaintiff/Proposed Class Representative, **SHEILA WISE**, is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **ANTHONY WISE**.
- J. Named Plaintiff/Proposed Class Representative, **SHEQUITA MCFARLAND**, is a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana. She is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MADISON JACQUE**.

AMENDED PARAGRAPH 2.

Plaintiffs Class:

Class Definition: All natural persons who are/were parents of students and students of John F. Kennedy Senior High School in New Orleans, Louisiana, who claim to have suffered damages, including, but not limited to, economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages, as a direct and proximate result of the negligent and/or intentional acts of Defendants.

Subclass 1: Parents of Students and Students of the Class of 2019;

Subclass 2: Parents of Students and Students of the Class of 2020;

Subclass 3: Parents of Students and Students of the Class of 2021;

Subclass 4: Parents of Students and Students of the Class of 2022; and

Subclass 5: Parents of Students and Students of the Class of 2023.

AMENDED PARAGRAPH 3.

Defendants

- A. Defendant **STATE OF LOUISIANA, BOARD OF ELEMENTARY AND SECONDARY EDUCATION** (hereinafter called “BESE”) is an administrative body for all Louisiana public elementary and secondary schools in the State of Louisiana.
- B. Defendant **ORLEANS PARISH SCHOOL BOARD** (hereinafter called “OPSB”) is a political subdivision of the State of Louisiana with its principal place of business in New Orleans, Louisiana. It oversees the charter of Defendant **NEW BEGINNINGS SCHOOLS** to operates John F. Kennedy High School.
- C. Defendant **NEW BEGINNINGS SCHOOLS FOUNDATION** (hereinafter called “NEW BEGINNINGS”) is a Louisiana Corporation with the capacity to sue and be sued. It is the charter network that operates John F. Kennedy High School.
- D. Defendant **TENSQUARE, LLC.** (hereinafter called “TENSQUARE”) is a foreign corporation licensed to do and doing business in the State of Louisiana. It is a Washington D.C.-based consulting company hired by Defendant **NEW BEGINNINGS SCHOOLS FOUNDATION** to manage the network.
- E. Defendant, **LOUISIANA DEPARTMENT OF EDUCATION**, a political subdivision of the State of Louisiana, charged with the responsibility for student and school performance records, including, but not limited to, student and school standards, assessment, accountability, and assistance.

AMENDED PARAGRAPH 4.

The combined acts and omissions of the Defendants, **BESE, OPSB, NEW BEGINNINGS, TENSQUARE** and **LDOE**, have caused and will continue to cause harm to the putative class. The collective acts and omissions of the joint tortfeasors named herein are damaging the putative class. As such, the liability to the putative class is a joint and indivisible legal obligation.

VENUE

AMENDED PARAGRAPH 5.

Orleans Parish is the proper venue to bring this action pursuant to La. Rev. Statute Section 22:1269B because the events which serve as the basis of this lawsuit occurred in Orleans Parish.

AMENDED PARAGRAPH 6.

Orleans is a proper venue for this matter pursuant to a. La. C.C.P. Art. 74 because it is the parish where wrongful conduct occurred or where damages were sustained.

JURISDICTION

AMENDED PARAGRAPH 7.

The action is within the jurisdiction of the Court and Orleans Parish has jurisdiction over the subject matter of this lawsuit pursuant to La. C.C.P. Art. 42, 73, and 74. Each of the defendants contributed to Plaintiffs' damages.

AMENDED PARAGRAPH 8.

The damages sought by the Plaintiffs and the putative class of persons similarly situated exceeds the minimum jurisdictional limits of this Court, exclusive of interest and costs.

FACTUAL BACKGROUND

AMENDED PARAGRAPH 9.

Gross mismanagement of the educational process at John F. Kennedy High School has caused the damages of the Plaintiff Class. The Plaintiff Class placed their trust in the educational institutions operated by the Defendants. The Defendants were charged by either statute and/or contract with the responsibility of educating youth. The Plaintiff Class detrimentally relied upon the Defendants to perform their fiduciary duties; yet, the fiduciary duties were breached by a

combination of actions and/or inactions (some negligent and some intentional) that directly caused horrible consequences adversely affecting the educational and/or occupational opportunities available to the students.

AMENDED PARAGRAPH 10.

In March 2019, news reporter David Hammer broke a story regarding students' grades being changed at John F. Kennedy High School (hereinafter called "Kennedy") in New Orleans, Louisiana. The grade fixing allegations surfaced after Runnell King, a former data director, alleged he was wrongfully terminated for alerting the board that employees at Kennedy had manually changed grades for several students who took former-Kennedy teacher Gloria Love's Algebra III class. King accused employees of changing F's to D's and D's to C's on the students' records. Love had left her position before the allegations were made public. After the initial news report, more allegations came up when seniors who thought they were graduating learned they couldn't because of falsely inflated grades.

AMENDED PARAGRAPH 11.

On April 1, 2019, Defendant **NEW BEGINNINGS** suspended CEO Michelle Blouin-Williams with pay and empowered Board President Raphael Gang to hire an educational management service. He entered into a contract with consulting group Defendant **TENSQUARE** on April 11, 2019. **NEW BEGINNINGS** also hired investigators with the law firm Adams and Reese to look into the allegations about grade-changing and a questionable bus contract.

AMENDED PARAGRAPH 12.

In mid-April, Defendant **NEW BEGINNINGS'** administrator Lauren Coleman told Defendant **TENSQUARE's** staff that the network's internal deadline for a graduate list was May 3, 2019. In an April 26, 2019 email, Meghan Turner (employee of **TENSQUARE**) told Brian Gibson (employee of **NEW BEGINNINGS**) the team still needed information. "As you can see below, we are missing several reports needed to identify seniors' graduation status and incomplete items." Brian Gibson then forwarded the email to his team at Kennedy. "Guys please give me an update on your parts of this. I need this behind us."¹

¹ It is noteworthy that Brian Gibson had been suspended while an assistant principal at Landry-Walker High School after a separate cheating scandal in 2016 before moving on to coach basketball at Southern University in New Orleans. He started as principal of Kennedy in the 2018-2019 school year.

Fwd: Next Steps for Senior Graduation Project

email: "brian.gibson@newbeginningsola.net Brian Gibson" Friday, April 26, 2019 at 9:34:11 PM Central Daylight Time
 To: email: "nicole.cooper@newbeginningsola.net Kennedy", email: "lalahawpaysa@gmail.com Toleha Williams-Payne", email: "lauren.coleman@newbeginningsola.net", email: "lisa.knight@newbeginningsola.net Lisa Knight", email: "lisa.hagan@newbeginningsola.net Lisa Hagan"

Guys plz give me an update on your parts of this. I need this behind us.

Sent from my iPhone

Begin forwarded message:

From: Meghan Turner <meghan@thetensquaregroup.com>
 Date: April 26, 2019 at 12:59:55 PM CDT
 To: Brian Gibson <brian.gibson@newbeginningsola.net>
 Cc: Andrew Touchette <andrew@thetensquaregroup.com>
 Subject: Fwd: Next Steps for Senior Graduation Project

Hi Mr. Gibson,

I am sharing an update of Senior Graduation Project. As you can see below, we are missing several reports needed to identify Seniors' graduation status and incomplete items.

Best,

----- Forwarded message -----

From: Meghan Turner <meghan@thetensquaregroup.com>
 Date: Fri, Apr 26, 2019 at 12:55 PM
 Subject: Re: Next Steps for Senior Graduation Project
 To: Rachel Banks <rachel.banks@newbeginningsola.net>, Roderick Matthews <roderick.matthews@newbeginningsola.net>, Lauren Coleman <lauren.coleman@newbeginningsola.net>, Kimberly Owens <kimberly.owens@newbeginningsola.net>, Lisa Knight <lisa.knight@newbeginningsola.net>

Hi Team,

Thank you for sending of the requested items. We are still missing several items. Please see the listing below.

Thanks,

[https://d1acvrry.ac2ll.com/secure/vw3DUp1yHf\(rnmg7U7enfer+\)=4299356.11020152.11.0.00079\(KV100004\)me=ACD7emzDKN79727uX1H1wvnmYnXLoXCd55r1f1Q6BBeXkx_AgWZS-D\(R7b\)XpnsGZM718...](https://d1acvrry.ac2ll.com/secure/vw3DUp1yHf(rnmg7U7enfer+)=4299356.11020152.11.0.00079(KV100004)me=ACD7emzDKN79727uX1H1wvnmYnXLoXCd55r1f1Q6BBeXkx_AgWZS-D(R7b)XpnsGZM718...) 1/8

AMENDED PARAGRAPH 13.

In early May 2019, one month after the board hired Defendant **TENSQUARE**, Meghan Turner (employee of **TENSQUARE**) and Laney French (employee of **TENSQUARE**) identified nine distinct issues at Kennedy that had to be dealt with in order for seniors to graduate. On the same day, May 8, 2019, Kennedy Assistant Principal Nicole Cooper sent an all-staff email at 1:32pm titled "URGENT: Senior teachers – grade verification sheets needed by 2 pm."

AMENDED PARAGRAPH 14.

In a lengthy email, Meghan Turner laid out the problems. The school would need to address students with failing grades and others who had incorrect coding for their classes. Some students' transcripts failed to note they had previously made up coursework in Kennedy's remedial program, GradPoint. Others were still actively making up course work. Some students who transferred to Kennedy mid-way through high school had incomplete transcripts. Other students lacked final grades from previous semesters or were waiting on final grades in the spring semester. Some were waiting for results from end-of-course exams. Students are required to pass three end-of-course exams to graduate in Louisiana. They must pass English, Math and either Social Studies or Science. Internal emails indicate that there was confusion regarding who would serve as testing coordinator and have the difficult task of talking to seniors about their test

scores. Additionally, some students had exceeded the state's absence limit. Internal emails indicate that Kennedy's policies on makeup seat time were unclear.

AMENDED PARAGRAPH 15.

On May 9, 2019, one week before graduation, Kathy Padian, a TENSQUARE Partner who opened the company's New Orleans office in 2015, emailed Brian Gibson to explain how senior certification was progressing. "Due to the sudden departure of your counselor and her apparent lack of completion of many tasks prior to leaving, I asked Meghan and later Delaney French to assist" in certifying seniors for graduation, Padian wrote. "We have concerns about the lack of data for many students and even though we are very late in the game, with graduation happening next week, we must do everything possible to confirm which students have and have not met the requirements." That day, Brian Gibson asked the team to focus on transcripts and graduation eligibility for the top 15 students.

AMENDED PARAGRAPH 16.

On May 14, 2019, three days before graduation, Laney French said 95 seniors were eligible to graduate, 30 had not met requirements, and she had 50 left to verify."

AMENDED PARAGRAPH 17.

On May 16, 2019, a contractor reviewing Kennedy's student transcripts sent an email to administrators at Defendant NEW BEGINNINGS including lists of 15 "pending" graduates and 12 "non-grads." It said, "Please tell me asap if I am wrong about any student's status," wrote Laney French (employee of TENSQUARE).

AMENDED PARAGRAPH 18.

That email, obtained by The Lens through state public records law, is one of dozens that show how administrators and contractors at the charter network scrambled to audit seniors' graduation eligibility in the weeks leading up to- and even after- the school's May 17, 2019 graduation ceremony, which amounted to a complete farce for many graduates. The emails also show rising Defendant NEW BEGINNINGS' employees and Defendant TENSQUARE's employees as the contractors discovered more and more problems.

AMENDED PARAGRAPH 19.

The task, dubbed "Senior Graduation Project," was a multi-faceted audit that required reviewing grades, attendance, transcripts and state exam scores among other things. The 690-student school had 168 seniors in the official state count taken on February 1, 2019. These are

necessary steps to determine a student's graduation eligibility, though many steps, like tallying credits from freshman, sophomore and junior years, can happen earlier.

AMENDED PARAGRAPH 20.

To add to the problems facing Kennedy, the high school's counselor resigned with two weeks to go in the school year, and contractors found multiple problems throughout students' records. In some instances, students had received two credits for a one-credit course. In other instances, there were wrongful acts of grade-inflation where administrators were accused of improperly changing some students grades from failing to passing. In other instances, students who were encouraged to take online classes in a program called "grad point" were not properly supervised by certified teachers, which resulted in no credit being applied for the work.

AMENDED PARAGRAPH 21.

Piling onto the problems, in the aftermath of these discoveries, the CEO Blouin-Williams and five administrators "resigned."

AMENDED PARAGRAPH 22.

In the days leading up to the graduation ceremony, seniors and their parents were advised that most of the class would not be receiving diplomas at graduation because they had credits to make up. At the "graduation ceremony" held on May 17, 2019, the school's blue-and-gold graduation program lists 155 names under the heading "John F. Kennedy High School Class of 2019." Then-principal Brian Gibson advised that students were not going to be issued diplomas; instead, they were advised that their diplomas could be picked up at the school the following Monday. At 9 p.m. that night, six hours after graduation, a contract employee told Brian Gibson diplomas could not be issued on Monday. "No diplomas will be issued until everything is verified and resolved," she wrote. On graduation day, emails show that determinations of ineligibility to graduate were still occurring.

Re: [REDACTED]

Friday, May 17, 2019 at 1:40:16 PM Central Daylight Time

Hi Everyone.

I checked on this as well, and can confirm what Devon is saying. She received the following in 2016-2017 from Lake Area:

It looks like she received credit for English II and US History from [REDACTED]. I haven't had a chance to put her full transcript in from [REDACTED] which gives her the US history credit.

I know this isn't welcome news. I wish it were different.

-Larney

On Fri, May 17, 2019 at 12:49 PM Roderick Matthews <roderick.matthews@newbeginningsnola.net> wrote:

After researching [REDACTED] grades for English III in Mrs. Hutchins gradebook and calling [REDACTED] I have confirmed that she took the course with us and is required to take EOC in order to graduate.

Roderick "Devon" Matthews
Director of IT

6026 Paris Ave
New Orleans, LA 70122
Phone: 504-758-4445 | Fax: 504-250-2312
roderick.matt@nbsnola.com | nbsnola.com

[illegible]

The foregoing email shows that one hour and twenty minutes before the graduation ceremony, the school staff were emailing back and forth about a student who was missing an English III end-of-course test.

AMENDED PARAGRAPH 23.

Three hours before graduation, on May 17, 2019, Assistant Principal Nicole Cooper wrote to Lacy French (employee of **TENSQUARE**) about her concern over how the valedictorian and salutatorian's grade point averages were calculated. "I don't know what to advise," French replied. "Historical grade data is riddled with errors that might be affecting the GPA, but I can't be certain because this is not something I've dealt with before." French advised waiting until the audit was complete but acknowledged that couldn't be achieved by 3 pm when the graduation ceremony began."

AMENDED PARAGRAPH 24.

On May 18, 2019, Brian Gibson (former Kennedy Principal) wrote to contractors asking why administrators had lost access to PowerSchool, Kennedy's online gradebook. The records obtained by The Lens did not explain why employees were cut off from the platform.

AMENDED PARAGRAPH 25.

Students had been told to pick up diplomas from Kennedy on May 20, 2019, the Monday after graduation. But, the date to pick up diplomas kept getting pushed back, with one lame

excuse after another being offered to parents and students. Diplomas were not issued the week of May 20, or for several weeks beyond that date. At a **NEW BEGINNINGS** Board Meeting, students and parents were begging for diplomas, transcripts and information. At the meeting, Board President Raphael Gang said the group was working as hard as it could.

AMENDED PARAGRAPH 26.

On May 21, 2019, Kennedy had still not cleared up the status and confusion over GradPoint credits, transfer transcript corrections and updates on class credits for Spanish courses.

Google Vault - Scalar transcripts - draft

Senior transcripts- draft

email: "laneyfrench@gmail.com Laney French"
To: email: "ashleidelarge@newbeginningsnola.net Ashlei DeLarge" , email: "meghan@thesquaregroup.com Meghan Turner" , email: "roderick.matthews@newbeginningsnola.net Roderick Matthews"

Tuesday, May 21, 2019 at 8:32:28 PM Central Daylight Time

Hi Ashlei,

I've made the following changes to transcripts and would love your help checking my work. Could you flip through these and let me know if you see something incorrect?

Issues [hopefully] cleared up:

- double credits for S2 + Y1 of 2017-2018 removed
- credit for homeroom removed
- Health and PE 1 (.5) each given .5 credit
- Dual Enrollment credits added (for all but one student- need to figure out course code for Sociology and Bio101)
- Credit recovery from individual teachers added/updated

STILL NOT ALL ADDED TO TRANSCRIPTS:

- Grad Point credits/grades (some have been added but most have not)
- Spanish II updates
- transfer transcript corrections not all made

Please let me know if you see any of the things I supposedly fixed that aren't fixed, or if you see any issues I don't already know about.

Thanks!

Wednesday, May 22, 2019 at 8:54:37 AM Central Daylight Time

email: "ashleidelarge@newbeginningsnola.net Ashlei DeLarge"
To: email: "laneyfrench@gmail.com Laney French"
Cc: email: "meghan@thesquaregroup.com Meghan Turner" , email: "roderick.matthews@newbeginningsnola.net Roderick Matthews"

Good Morning,

Will do

Respectfully,
Ashlei E. DeLarge, MA,PLPC
Professional School Counselor

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In an email that day, French wrote, “There are massive inconsistencies with grades and attendance.”

AMENDED PARAGRAPH 27.

On May 22, 2019, Turner asked for a list of students who needed summer remediation or to make up end-of-course tests.

AMENDED PARAGRAPH 28.

On June 28, 2019, for the first time since allegations of grade tampering at Kennedy, the Orleans Parish School Board Superintendent addressed students and parents about the situation saying: “First and foremost, on behalf of this District, I would like to apologize due to the careless and reckless actions of adults they trusted at John F. Kennedy. You were undeserved and misled.

You should be celebrating your senior graduation this month, but instead you have been forced to question the certainty of your future.”

AMENDED PARAGRAPH 29.

During the summer of 2019, approximately fifty-three (53) seniors, who had participated in the graduation ceremony, attended summer school in order to complete requirements necessary to obtain their diplomas. After completing summer school, there were continued delays associated with certifying students as “eligible” to graduate. During this time, students could not register for college courses, submit necessary transcripts for financial aid and scholarship eligibility, participate in summer orientation programs, or take other meaningful actions in pursuit of college placement. On August 6, 2019, at a hearing on a writ of mandamus, it was disclosed by witness, Jennifer Baird of the Louisiana Department of Education, that of the fifty-three (53) students who attended summer school only about twenty (20) were eligible to receive a diploma and certified transcript. Approximately thirty-three (33) students were provided with the wrong course work in summer school by Defendant **NEW BEGINNINGS**, or otherwise failed to meet requirements to graduate, despite going to summer school.

AMENDED PARAGRAPH 30.

Throughout the summer of 2019, parents and students were demanding diplomas and transcripts from Defendants **NEW BEGINNINGS** and **OPSB** (an entity charged with oversight of **NEW BEGINNINGS** by statute and by contract). Defendant **OPSB** hid behind the excuse that they did not possess the transcripts and diplomas. Defendant **NEW BEGINNINGS** hid behind the excuse that the delay was caused by the **LDOE**’s process of reviewing each students’ eligibility to graduate. Defendant **LDOE** blamed the delay upon **NEW BEGINNINGS**’ failure to produce documents necessary to assess students’ eligibility to graduate. While the Defendants shifted blame to one another, the students lost educational opportunities. Failure to timely provide certified transcripts to four-year universities, community college and technical colleges, resulted in incomplete registrations, lost scholarships, and lost financial aid. Many students could no longer pursue the educational opportunities they had worked so hard to earn, but for the Defendants combined acts of negligence.

AMENDED PARAGRAPH 31.

Throughout the summer of 2019, it also became apparent that the gross mismanagement that led to the seniors’ curriculum being deficient also plagued the lower classmen of Kennedy.

As parents demanded transcripts to transfer their children to alternate high schools, they faced unexplainable delays in obtaining educational records. As a result, the parents missed deadlines to register their children at alternate high schools and were forced to return their children to Kennedy. The parents and children lost the ability to exercise “school choice.” Upon information and belief, the academic records of the underclassmen at Kennedy also bear deficiencies associated with use of GradPoint, and other negligence in the management of curriculum.

AMENDED PARAGRAPH 32.

Despite the open and obvious failure of Defendant OPSB to exercise diligent supervision and oversight over Defendant **NEW BEGINNINGS**’ in the operation of a charter school, and despite the pathetic failure of **NEW BEGINNINGS** to meet the educational needs of the students at Kennedy, the Defendants **LDOE** and **BESE** empowered the **OPSB** and **NEW BEGINNINGS** to continue to ruin the lives of students by maintaining **NEW BEGINNINGS**’ charter to operate John F. Kennedy during the 2019-2020 academic school year. This action constitutes wanton, willful and reckless disregard for the students of Kennedy. It constitutes a breach of fiduciary duty by the Defendants **OPSB**, **LDOE** and **BESE**.

AMENDED PARAGRAPH 33.

The doors of Kennedy opened on August 5, 2019, and most of the seniors of the Class of 2019, still did not realize that they should be re-registered for a second “shot” at senior year to complete requirements to be eligible for a diploma and transcript. To date, these students have still not been properly advised of their educational status.

**NAMED PLAINTIFFS/PROPOSED CLASS REPRESENTATIVES’
SPECIFIC ALLEGATIONS**

AMENDED PARAGRAPH 34.

Named Plaintiff/Proposed Class Representative, **DARNETTE DANIELS**, is the biological mother and legal guardian of John F. Kennedy Student Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON**, who was recruited to transfer from Slidell High to John F. Kennedy in her junior year. She and her mother were advised that she could take online classes through GradPoint and graduate in May 2019 – a year early. Relying upon this representation, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** transferred to Kennedy. She worked diligently many nights until midnight taking online classes from the comfort of her home. Her plan was to graduate in May 2019 from Kennedy and to enroll in a full-time program at Aveda to become a licensed hair stylist. Believing that she was

graduating, she toured Aveda, completed the applications for enrollment and financial aid. Her applications were just missing her diploma and transcript. Her Aveda classes were scheduled to begin on June 19, 2019.

AMENDED PARAGRAPH 35.

Two days before graduation, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** and her mother Named Plaintiff/Proposed Class Representative **DARNETTE DANIELS**, were advised that none of the credits that Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** had completed online would be recognized because they were not performed in the presence of a certified teacher. Prior to this disclosure, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** had never been advised that the online classes needed to be performed in the classroom in front of a certified teacher. All of her hard work, all of her sacrifice, had been performed for nothing. Her transfer to Kennedy had been performed in vain.

AMENDED PARAGRAPH 36.

In anticipation of graduation, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON**'s family members travelled to New Orleans from other states. The entire family had joyfully anticipated her graduation. She had participated in all of the things seniors enjoy, *i.e. senior pictures... senior rings... senior prom... and, yes, she walked the stage in a "graduation ceremony."* People gave her graduation presents and congratulatory words of encouragement. And, then in the weeks after graduation, Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** was advised that she needed to attend summer school and needed to return to school in August to complete her senior year because she could not make up all of the credits in one summer. Indeed, she had not graduated at all. The ceremony had been no more than a "farce."

AMENDED PARAGRAPH 37.

Named Plaintiff/Proposed Class Representative **TAYLER MCCLENDON** had too many credits to make up in summer school. She was advised that she needed to repeat her senior year. She was not provided a transcript to timely transfer to another high school. She has been forced to return to Kennedy and place her future in the hands of Defendant **NEW BEGINNINGS** again.

AMENDED PARAGRAPH 38.

Named Plaintiff/Proposed Class Representative, **ANUSICA BANKS**, is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **AMBER BROWN**, who was a “graduating senior of the Class of 2019” and received her diploma on June 10, 2019; however, her scholarship and financial aid were jeopardized at the University of Southern Mississippi, due to the Defendants **NEW BEGINNINGS** and **LDOE**’s negligence in failing to timely provide a certified transcript. As a result of the delays, Plaintiff/Proposed Class Representative **AMBER BROWN** had to miss orientation and college move-in day. She experienced extreme emotional distress while she and her mother waited to learn whether she was “eligible” to graduate and whether the transcript would be produced to USM before the start of the school year. Due to the pressure exerted by this litigation, she received a certified transcript and was able to begin college in Fall of 2019.

AMENDED PARAGRAPH 39.

Plaintiff/Proposed Class Representative, **AYANNA JORDAN**, is the biological mother and legal guardian of former John F. Kennedy Student Plaintiff/Proposed Class Representative **ELIJAH JORDAN**, who was a “graduating senior in the Class of 2019” and was forced to attend the summer program after graduation, which he completed. He had been accepted to Delgado to attend school to be a barber. Due to the failure of Defendants **NEW BEGINNINGS** and **LDOE** to timely produce his transcript, he was unable to continue with his education in the fall of 2019.

AMENDED PARAGRAPH 40.

Plaintiff/Proposed Class Representative, **CHELETIA HERRING**, the biological mother and legal guardian of former John F. Kennedy Students **JEREMIAH GAINES** and **DANIEL TERRELL**. Named Plaintiff/Proposed Class Representative **JEREMIAH GAINES** was a “graduating senior at Kennedy, who attended and completed the summer program, after graduation. He was trying to get a job working on the docks and needed a TWIC card. He could not obtain the TWIC card because he did not receive a diploma or certified transcript. Due to the failure of Defendants **NEW BEGINNINGS** and **LDOE** to timely produce a transcript, he lost a job opportunity.

Named Plaintiff/Proposed Class Representative **CHELETIA HERRING** desired to transfer her minor son **DANIEL TERRELL**, a rising 2020 senior, to another high school. She

had completely lost faith in the ability of Defendants OPSB and NEW BEGINNINGS to properly educate her son. She desired to transfer him to Salmen High School in St. Tammany Parish. Named Plaintiff/Proposed Class Representative **CHELETIA HERRING** faced extreme difficulty doing so when Defendant **NEW BEGINNINGS** refused to release his educational records in a timely manner. As a result, she could not transfer her son to Salmen High School. At the very last minute, she was able to transfer him to another Orleans Parish Public School.

AMENDED PARAGRAPH 41.

Named Plaintiff/Proposed Class Representative, **CLARISSA SMITH**, is the biological mother and legal guardian of former John F. Kennedy Student **TRINITY BARNES**, who was the valedictorian of the John F. Kennedy Class of 2019. After a graduation ceremony where she delivered a valedictory address, she learned that she not eligible to graduate and had to attend summer school. Her full academic scholarship to Rhodes College in Memphis, Tennessee was jeopardized by Defendants **NEW BEGINNINGS** and **LDOE'S** failure to timely produce her certified transcript. When she finally received her certified transcript, it contained unexplained grade changes that adversely affected her final grade point average. There will always be a dark cloud over her status as valedictorian.

AMENDED PARAGRAPH 42.

Named Plaintiff/Proposed Class Representative, **KENA ROSS**, is the biological mother and legal guardian of former John F. Kennedy Student **JOHN ROSS**, who was "graduating senior in the John F. Kennedy Class of 2019." Named Plaintiff/Proposed Class Representative **JOHN ROSS** had dedicated his youth to playing football and earned a full scholarship to play football at Highland Community College in Highland, Kansas. He would have been the first person in his family to attend college. After graduation, Named Plaintiff/Proposed Class Representative **JOHN ROSS** learned he had to attend summer school. He completed summer school which caused him to miss most of football training camp to compete for a starting position on the team. After completing summer school, he went to training camp on July 28, 2019, only to learn that he was directed by Defendant **NEW BEGINNINGS** to take the wrong courses in summer school. He now has to make up the credits through his community college in order to obtain a certified transcript. His football scholarship and academic standing in college remains in jeopardy.

AMENDED PARAGRAPH 43.

Named Plaintiff/Proposed Class Representative, **RACQUEL YOUNG**, is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **JESSICA YOUNG**, who was a “graduating senior in the John F. Kennedy Class of 2019,” and had earned a full band scholarship to Stillman College in Alabama. After graduation, Named Plaintiff/Proposed Class Representative **JESSICA YOUNG** learned she had to attend summer school. She completed summer school which caused her to miss Stillman’s band camp. Due to the delays in obtaining her transcript from Defendants **NEW BEGINNINGS** and **LDOE**, she lost her band scholarship to Stillman and lost her federal financial aid. As a direct result of the Defendants’ negligence, she could not attend Stillman.

AMENDED PARAGRAPH 44.

Named Plaintiff/Proposed Class Representative, **SHARLENE SULLIVAN**, is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **LEDREKIA SMOTHERS**, who was “graduating senior in the John F. Kennedy Class of 2019,” and learned that she needed to attend summer school. She attended summer school. Delays in obtaining her transcript from Defendants **NEW BEGINNINGS** and **LDOE** jeopardized her enrollment and federal financial aid to attend Southern University in New Orleans.

AMENDED PARAGRAPH 45.

Named Plaintiff/Proposed Class Representative, **SHEILA WISE**, is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **ANTHONY WISE**, who was a “graduating senior of the John F. Kennedy Class of 2019,” and learned that he needed to attend summer school. He completed summer school. As of August 22, 2019, Named Plaintiff/Proposed Class Representative **ANTHONY WISE** still had not obtained a diploma or certified transcript from Defendants **NEW BEGINNINGS** and **LDOE**. He has not been advised regarding his “eligibility” to graduate. He does not know if he should be repeating senior year or registering for college. He had plans to play football at Bayou Prep for the 2019-2020 academic school year but could not do so because of the delays in obtaining his transcript from Defendants **NEW BEGINNINGS** and **LDOE**.

AMENDED PARAGRAPH 46.

Named Plaintiff/Proposed Class Representative, **SHEQUITA MCFARLAND**, is the biological mother and legal guardian of former John F. Kennedy Student Named Plaintiff/Proposed Class Representative **MADISON JACQUE**, who was a “graduating senior of the John F. Kennedy Class of 2019,” and learned that she needed to attend summer school. She complete summer school. However, due to delays in obtaining her transcript and diploma from Defendants **NEW BEGINNINGS and LDOE**, her registration and federal financial aid at Delgado was jeopardized. She was able to register at Delgado at the last minute and she is currently attending classes.

LEGAL THEORIES OF RECOVERY AGAINST DEFENDANTS

AMENDED PARAGRAPH 47.

The Defendants **BESE, OPSB, NEW BEGINNINGS TENSQUARE and LDOE** had fiduciary duties to the Named Plaintiffs/Proposed Class Representatives based upon the Constitution of the United States, the Constitution of Louisiana, the Louisiana Revised Statutes, applicable state and federal regulations, and policies of **BESE**. The Defendants breached their fiduciary duties to administer educational programs to students at John F. Kennedy High School exercising due diligence to ensure successful matriculation through the educational process towards eligibility for graduation.

AMENDED PARAGRAPH 48.

More specifically, the Defendants **BESE, LDOE and OPSB** failed to reasonably prudent provide oversight and supervision over Defendant **NEW BEGINNINGS** in the education of Kennedy students to ensure that it knew and followed all mandates of Title 28, including, but not limited to Bulletin 741 (Louisiana Handbook For School Administration), including but not limited to, the following provisions of Title 28, Bulletin 741, which were violated:

- A. §703 - the duties to maintain accurate student cumulative records, continually update to determine student progress, and to review regularly to use for instructional planning, student counselling and placement;
- B. §705 - the duties to report each student’s progress to parents or guardians at intervals and to provide educational records to students and parents in accordance with the federal Family Education Rights and Privacy Act;

- C. §713 – the duty to check attendance each school day and at the beginning of each class period and to notify parents or other persons responsible for the student’s school attendance of any prohibited absence by the student;
- D. §717 – the duty to timely provide reports of high school credit in a timely manner for the issuance of diplomas and certified transcripts;
- E. §2317 – the duty to adhere to the curriculum and time requirements established by the LDOE and approved by BESE, and the duty to ensure that students meet the state minimum high school graduation requirements BEFORE graduation;
- F. §2318 – the duty to follow the curriculum requirements for the Louisiana Basic Core curriculum to ensure that students will be eligible for the TOPS University Diploma;
- G. §2324 – the duty to properly administer the “credit recovery program,” which refers to instructional programs for students who have failed courses previously taken; the duty to administer credit recovery courses in a classroom setting using computer software programs designed for credit recovery facilitated by a certified teacher (aka GradPoint courses); and
- H. §2503 – the duty to properly administer summer school programs to enable students who have failed subjects to remove deficiencies.

AMENDED PARAGRAPH 49.

The Defendants OPSB, NEW BEGINNINGS and TENSQUARE engaged in constructive fraud. They were obtaining financial gains and an unfair advantage over the Named Plaintiffs/Proposed Class Representatives and putative class by lying or omitting important details about Kennedy students’ educational progression in order to maintain student enrollment and maintain a charter for NEW BEGINNINGS.

AMENDED PARAGRAPH 50.

The Defendants BESE, OPSB, NEW BEGINNINGS TENSQUARE and LDOE were negligent in acting as reasonable and prudent educators in providing educational services to the students at Kennedy. They owed the Plaintiffs a duty of care; breached that duty of care; and the breach was the actual and proximate cause of the plaintiffs’ damages. They are liable under La. Civil Code Article 2315 for negligence.

AMENDED PARAGRAPH 51.

The Defendants **BESE, OPSB, NEW BEGINNINGS, TENSQUARE** and **LDOE** engaged in gross negligence by acting with wanton conduct and showing a reckless disregard for the rights of others.

AMENDED PARAGRAPH 52.

The Defendants **BESE, OPSB, NEW BEGINNINGS, TENSQUARE** and **LDOE** engaged in negligent misrepresentation that students' educational process was progressing according to BESE's policies. The Plaintiffs justifiably relied upon the negligent misrepresentations to their detriment based upon information prepared without reasonable care by parties who owed them a duty of care.

AMENDED PARAGRAPH 53.

The Defendants **BESE, OPSB, NEW BEGINNINGS, TENSQUARE** and **LDOE** engaged in fraud and fraud in the inducement that students' educational process was progressing according to BESE's policies. There were false representations or concealment of material facts reasonably calculated to deceive, made with the intent to deceive. The Plaintiffs were, in fact, deceived and suffered damages.

AMENDED PARAGRAPH 54.

The Defendants **LDOE, OPSB, and NEW BEGINNINGS** violated the mandates of Louisiana Revised Statute 17:406.9 which mandates that parents have the right to inspect their child's school records and to receive copies of same. Parents must also be informed if their child's academic performance is such that it could threaten the child's ability to be promoted to the next grade level and to be offered an in-person meeting with the child's classroom teacher and school leader to discuss any resources or strategies available to support and encourage the child's academic performance.

AMENDED PARAGRAPH 55.

The Defendant **NEW BEGINNINGS** may have engaged in intentional conduct in changing grades in order to enhance graduation rates to their own financial benefit.

AMENDED PARAGRAPH 56.

All Defendants are responsible for the conduct of their employees under the legal theory of *respondent superior*.

AMENDED PARAGRAPH 57.

Plaintiffs assert that the Defendants **BESE, OPSB, NEW BEGINNINGS, TENSQUARE** and **LDOE**'s combined acts of gross mismanagement of Kennedy High School including inability to maintain staff and teachers; overuse of substitute teachers; financial mismanagement; falsification of contracts that affect school operations; gross negligence in not knowing policies and practices of the LDOE regarding successful matriculation from high school – policies and procedures that competent administrators and teachers should have known; gross negligence in providing students with information regarding graduation credits and GradPoint that caused them to fail; and other acts of negligence to be proven at trial.

DAMAGES

AMENDED PARAGRAPH 58.

Named Plaintiffs/Proposed Class Representatives and a putative class of persons similar situated seeks damages as follows:

- a) All past, present and future costs and/or expenses of senior year, including senior budgets, senior rings, senior photographs, graduation parties, and other senior year and graduation related expenditures;
- b) All past, present and future mental suffering and emotional distress;
- c) All past, present and future loss of enjoyment of life;
- d) All past, present and future deprivation of college placement and scholarship opportunities;
- e) All past, present and future deprivation of technical school placement and scholarship opportunities;
- f) Loss of job opportunities;
- g) Loss of quality of life;
- h) Damage to reputation;
- i) Damages for not being provided the core curriculum requirements to obtain a Louisiana state diploma;
- j) Damages for not being provided the core curriculum requirements to be ready for college admittance; and

k) All other forms of relief provided by law or equity together with interest from the date of judicial demand until paid, and costs of these proceedings.

CLASS ALLEGATIONS

AMENDED PARAGRAPH 59.

Named Plaintiffs/Proposed Class Representatives aver that, upon information and belief, there are additional parents and students of John F. Kennedy High School who are similarly situated to them. Upon discovery, if this is the case, Named Plaintiffs/Proposed Class Representatives are entitled to maintain this action as a class action pursuant to La. C.C.P. art. 591, with the following class definition:

Class Definition: All natural persons who are/were parents of students and students of John F. Kennedy Senior High School in New Orleans, Louisiana, who claim to have suffered damages, including, but not limited to, economic losses, emotional distress, loss of opportunity, loss of quality of life, and other damages, as a direct and proximate result of the negligent and/or intentional acts of Defendants.

Subclass 1: Parents of Students and Students of the Class of 2019;

Subclass 2: Parents of Students and Students of the Class of 2020;

Subclass 3: Parents of Students and Students of the Class of 2021;

Subclass 4: Parents of Students and Students of the Class of 2022; and

Subclass 5: Parents of Students and Students of the Class of 2023.

AMENDED PARAGRAPH 60.

If, upon discovery, this action is sought to be certified to proceed as a class action, Plaintiffs will prove that class members are over 1000 persons such that joinder is impracticable; there are questions of fact and law that are common to all class member; common issues predominate over individual issues; named plaintiff will fairly and adequately protect the interests of the proposed class; the undersigned attorneys are experienced in the prosecution of class actions and will adequately represent the interests of the class; Plaintiffs and their counsel are aware of no conflicts of interests between them and similarly situated individuals. Plaintiffs have, or can acquire, adequate financial resources to assure that the interests of the potential class will not be harmed. Plaintiffs are knowledgeable concerning the subject matter of this action and will assist counsel in the prosecution of this litigation. And, prosecution of separate actions by individual plaintiffs rather than as a class as proposed would create significant risks of inconsistent or varying judgments.

INSURANCE

AMENDED PARAGRAPH 61.

Upon information and belief, Defendants, **BESE, OPSB, NEW BEGINNINGS, TENSQUARE** and **LDOE** carry errors and omissions insurance and other policies of insurance that should compensate the Plaintiffs based upon the facts and circumstances of this case. As such, those unidentified insurance companies are liable with the Defendants for the Plaintiffs' damages.


JURY TRIAL DEMAND

AMENDED PARAGRAPH 62.

Plaintiffs and a putative class of similarly situated persons seeks a trial by jury as to all issues set forth herein.

WHEREFORE, Plaintiffs pray that the Defendants, **BESE, OPSB, NEW BEGINNINGS, TENSQUARE** and **LDOE** be served and commanded to answer this first amended and supplemental petition for damages, and that after all due proceedings are held, that there be judgment rendered herein against the Defendants for general damages, special damages, and for any costs expended herein, and for pre-judgment interest from the date of Plaintiffs' filing of this lawsuit, and for all other relief both at law and at equity, to which Plaintiffs show themselves and the putative class to be justly entitled to receive from Defendants.

RESPECTFULLY SUBMITTED BY:



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CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that I have on this 26th day of August, 2019, served the foregoing pleading on all counsel of record herein, by placing a copy of same in the United States mail, properly addressed and first class postage prepaid, or by hand-delivery, facsimile, and/or electronic mail.


SUZETTE BAGNERIS

PLEASE SERVE:

(With first amending and supplemental petition for damages)

**STATE OF LOUISIANA,
BOARD OF ELEMENTARY AND SECONDARY EDUCATION AND
LOUISIANA DEPARTMENT OF EDUCATION
Through the Attorney General/State of Louisiana**

ORLEANS PARISH SCHOOL BOARD

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